



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 07289-99
21 January 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: SSG [REDACTED], USN [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 17Nov99 w/attachments
(2) HQMC memo 1070 MIFD dtd 5Jan00
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the service record book (SRB) page 11 ("Administrative Remarks") counseling entry dated 13 November 1996 and Petitioner's statement regarding this entry. Copies of the page 11 and Petitioner's statement are in enclosure (1) at Tab A.
2. The Board, consisting of Mses. Hardbower and LeBlanc and Mr. Kastner, reviewed Petitioner's allegations of error and injustice on 21 January 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:


a. That Petitioner's naval record be corrected by removing the SRB page 11 ("Administrative Remarks") counseling entry dated 13 November 1996 in its entirety. In accomplishing this, the page 11 on which it appears is to be reconstructed in accordance with the Individual Records Administration Manual, Marine Corps Order P1070.12; or the entry is to be completely obliterated so that it cannot be read, rather than merely lined through.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

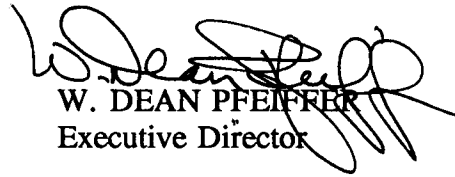
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7289-99

IN REPLY REFER TO:

1070
MIFD

5 JAN 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE STAFF SERGEANT [REDACTED]
[REDACTED] USMC

1. We reviewed Staff Sergeant [REDACTED] application and supporting documents concerning his request for removal of the Administrative Remarks page 11 entry dated 961113 from his service record.

2. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make Service Record Book (SRB) entries on page 11 which are essential to document an event in a Marine's career for which no other means or method of recording exists elsewhere in the SRB or the Marine's automated record, and will be useful to future commanders.

3. The following comments concerning the page 11 entry dated 961113 are provided:

a. A proper page 11 entry must meet certain elements in that it must list specific deficiencies and recommendations for corrective action, where assistance can be found and state that the Marine was provided the opportunity to make a rebuttal statement. The Marine must annotate whether or not they choose to make such a statement and if made, a copy of the statement is filed in the service record.

b. The INCIDENT for which the page 11 entry dated 961113 was made, "Discreditable incident involving civilian authorities." is very ambiguous in determining it to be an alcohol related incident deficiency.

c. The INCIDENT did not result in a civilian or military adjudication in the court of law or under the UCMJ and the contributing factor to the incident was not due to Staff Sergeant [REDACTED] ingestion of alcohol.

d. The page 11 entry dated 961113 does not meet the elements of a proper counseling entry.

4. Additional comments concerning Staff Sergeant [REDACTED] application dated 17 November 1999:

Subj: BCNR APPLICATION IN THE CASE STAFF SERGEANT [REDACTED]
[REDACTED] SMC

a. Staff Sergeant [REDACTED] supervisor [REDACTED] provides a statement to the effect that the incident that occurred at his residence while off-duty did not warrant an adverse entry in his service records.

b. Staff Sergeant [REDACTED] Senior Instructor, Chief Warrant Office [REDACTED] provides a statement to the effect that in his opinion, this incident did not warrant an adverse entry in his service records.

c. Staff Sergeant [REDACTED] friend [REDACTED] whom initiated the circumstances surrounding this incident, provides a statement to the effect that she made a telephone call to the local law enforcement agency with the intention of helping him and in her opinion, "may have over reacted", "calling the police was probably not necessary", and "never meant to cause this kind of trouble".

d. Staff Sergeant [REDACTED] reviewing officer under the Personnel Evaluation System (PES), Lieutenant Commander [REDACTED] directed that an adverse fitness report be prepared concerning this incident, which was subsequently removed from his Official Military Personnel File (OMPF) on 22 January 1999.

e. Staff Sergeant [REDACTED] reviewing officer under the PES, Lieutenant Commander [REDACTED] completed an adverse certification on an otherwise outstanding fitness report concerning this incident which was subsequently removed from his OMPF on 1 July 1998.

f. The page 11 counseling entry was made because of the interpretation of the incident by the Officer in Charge, Lieutenant Commander [REDACTED]

5. In view of the above, it is recommended that Staff Sergeant [REDACTED]'s request for removal of the page 11 counseling entry dated 961113 be approved.

[REDACTED] [REDACTED]
[REDACTED]
Head, Field Support Branch
Manpower Management Information
Systems Division